

REMARKS

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided, for the acknowledgment of Applicant's Information Disclosure Statement by return of the Form PTO-1449, and for the acknowledgment of Applicant's Claim for Priority and receipt of the certified copy of the priority document in the Official Action.

Upon entry of the above amendments claim 1 will have been amended and claims 21 and 22 will have been newly presented. Claims 1-22 are currently pending. Applicant respectfully requests reconsideration of the outstanding rejections, and allowance of all the claims pending in the present application.

On page 2 of the Official Action, the Title was objected to as not being descriptive. Applicant has submitted a replacement Title which is more descriptive. Accordingly, Applicant respectfully requests withdrawal of the objection to the Title.

On pages 2-5 of the Official Action, claims 1 and 6-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over SHIMOZONO in view of KATAYAMA.

Applicant respectfully traverses this rejection under 35 U.S.C. §103(a).

Claim 1 recites, inter alia, "wherein change in spherical aberration of said first light beam caused by wavelength deviation from a design wavelength due to individual specificity of said light source is corrected by adjusting the diverging/converging angle of said first light beam emerging from said collimator

lens."

In the Official Action, the Examiner acknowledges that SHIMOZONO lacks any disclosure of such feature, but the Examiner contends that such feature is disclosed by KATAYAMA.

In this regard, Applicant notes that paragraph [0154] of KATAYAMA discusses adjusting the position of a collimator lens 2 in order to cancel *spherical aberration due to variation in the substrate thickness* of a disk 7. However, Applicant submits that KATAYAMA lacks any disclosure of adjusting the diverging/converging angle of a light beam emerging from a collimator lens in order to correct for a *change in spherical aberration due to wavelength deviation from a design wavelength due to individual specificity of a light source*.

Accordingly, Applicant submits that the teachings of KATAYAMA can not reasonably be characterized as curing the deficiencies in the disclosure of SHIMOZONO, particularly with regard to the *correction of spherical aberration resulting from wavelength variation of a light source*. Even assuming, arguendo, that the teachings of the references discussed by the Examiner were to be combined, Applicant submits that such a modified system would not result in the invention defined in the claims.

Applicant further submits that the modification suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modification is clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves. Applicant further submits that the

Examiner has not provided a proper statement of motivation for such modification, or for combining the teachings of the references.

Applicant further submits that the dependent claims 6-9, which are at least patentable due to their dependency from claim 1, for the above-noted reasons, recite additional features of the invention and are also separately patentable over the prior art of record. For example, contrary to the position stated by the Examiner, Applicant submits that paragraph [0154] of KATAYAMA does not teach the additional subject matter recited in claims 7 or 8, which the Examiner acknowledges is not disclosed in SHIMOZONO.

Accordingly, Applicant submits that the rejection of claims 1 and 6-9 under 35 U.S.C. §103(a) is improper at least for each, and certainly for all, of the above-noted reasons. Applicant respectfully requests withdrawal of this rejection under 35 U.S.C. §103(a), and an early indication of the allowance of all of the pending claims.

On pages 5-7 of the Official Action, claims 2-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over SHIMOZONO in view of KATAYAMA, and further in view of IKENAKA et al. and NISHIWAKI.

Applicant respectfully traverses these rejections under 35 U.S.C. §103(a).

As an initial matter, Applicant submits that the teachings of IKENAKA et al. and NISHIWAKI do not cure the deficiencies in the disclosures of SHIMOZONO and KATAYAMA as noted above with regard to claim 1.

Applicant further submits that the dependent claims 2-4, which are at least patentable due to their dependency from claim 1, for the above-noted

reasons, recite additional features of the invention and are also separately patentable over the prior art of record. In this regard, Applicant submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modifications are clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves.

Accordingly, Applicant submits that the rejections of claims 2-4 under 35 U.S.C. §103(a) are improper at least for each, and certainly for all, of the above-noted reasons. Applicant respectfully requests withdrawal of these rejections under 35 U.S.C. §103(a), and an early indication of the allowance of all of the pending claims.

On pages 7-9 of the Official Action, claims 10, 11 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over SHIMOZONO in view of ARAI et al. and KATAYAMA.

Applicant respectfully traverses this rejection under 35 U.S.C. §103(a).

In the Official Action, the Examiner acknowledges that SHIMOZONO lacks any disclosure of first and second collimator lenses, but contends that providing first and second collimator lenses would have been obvious in view of the teachings of ARAI et al.

Applicant submits that the modification suggested by the Examiner based upon the teachings of ARAI et al. would not have been obvious to one having ordinary skill in the art, and that such modification is clearly the result of

impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves. Applicant further submits that the Examiner has not provided a proper statement of motivation for such modification, or for combining the teachings of the references. Applicant also submits that the additional modification of the system of SHIMOZONO suggested by the Examiner, as discussed below, would clearly constitute an impermissible modification of a modification.

Claim 10 further recites, inter alia, "wherein said first and second collimator lenses are located so as to respectively correct change in spherical aberration of said first and second light beams caused by wavelength deviations from design wavelengths of said first and second light beams due to individual specificity of said first and second light sources."

In the Official Action, the Examiner acknowledges that SHIMOZONO lacks any disclosure of such feature, but the Examiner contends that such feature is disclosed by KATAYAMA.

In this regard, Applicant notes that paragraph [0154] of KATAYAMA discusses adjusting the position of a collimator lens 2 in order to cancel *spherical aberration due to variation in the substrate thickness* of a disk 7. However, Applicant submits that KATAYAMA lacks any disclosure of locating collimator lenses in order to correct for *change in spherical aberration due to wavelength deviations from design wavelengths due to individual specificity of light sources*.

Accordingly, Applicant submits that the teachings of KATAYAMA can not

reasonably be characterized as curing the deficiencies in the disclosure of SHIMOZONO, particularly with regard to the *correction of spherical aberration resulting from wavelength variation of light sources*. Even assuming, arguendo, that the teachings of the references discussed by the Examiner were to be combined, Applicant submits that such a modified system would not result in the invention defined in the claims.

Applicant further submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modifications are clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves. Applicant further submits that the Examiner has not provided a proper statement of motivation for such modifications, or for combining the teachings of the references.

Applicant further submits that the dependent claims 11 and 13, which are at least patentable due to their dependency from claim 10, for the above-noted reasons, recite additional features of the invention and are also separately patentable over the prior art of record. In this regard, Applicant submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modifications are clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves.

Accordingly, Applicant submits that the rejection of claims 10, 11 and 13

under 35 U.S.C. §103(a) is improper at least for each, and certainly for all, of the above-noted reasons. Applicant respectfully requests withdrawal of this rejection under 35 U.S.C. §103(a), and an early indication of the allowance of all of the pending claims.

On page 9 of the Official Action, claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over SHIMOZONO in view of ARAI et al. and KATAYAMA, and further in view of IKENAKA et al.

Applicant respectfully traverses this rejections under 35 U.S.C. §103(a).

As an initial matter, Applicant submits that the teachings of IKENAKA et al. do not cure the deficiencies in the disclosures of SHIMOZONO, ARAI et al. and KATAYAMA as noted above with regard to claim 10.

Applicant further submits that the dependent claim 12, which is at least patentable due to its dependency from claim 10, for the above-noted reasons, recites additional features of the invention and is also separately patentable over the prior art of record. In this regard, Applicant submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modifications are clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves.

Accordingly, Applicant submits that the rejection of claim 12 under 35 U.S.C. §103(a) is improper at least for each, and certainly for all, of the above-noted reasons. Applicant respectfully requests withdrawal of this rejection under 35 U.S.C. §103(a), and an early indication of the allowance of all of the pending

claims.

On pages 9-11 of the Official Action, claims 14, 15 and 17-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over SHIMOZONO in view of NISHIWAKI et al.

Applicant respectfully traverses this rejection under 35 U.S.C. §103(a).

Claim 14 and 18 recite, inter alia, "diffraction structure designed so that said first and second light beams respectively handle the first optical disc and the second optical disc and so that change in spherical aberration caused by said objective lens in accordance with wavelength variation of said first light beam is generated substantially by third-order spherical aberration only."

In the Official Action, the Examiner acknowledges that SHIMOZONO lacks any disclosure of such feature, but the Examiner contends that such feature is disclosed by NISHIWAKI et al.

In this regard, Applicant notes that paragraphs [0010] and [0097] of NISHIWAKI et al. discuss third-order spherical aberrations. However, Applicant submits that NISHIWAKI et al. lacks any disclosure of diffraction structure designed so that *change in spherical aberration caused by an objective lens in accordance with wavelength variation of a first light beam is generated substantially by third-order spherical aberration only.*

Accordingly, Applicant submits that the teachings of NISHIWAKI et al. can not reasonably be characterized as curing the deficiencies in the disclosure of SHIMOZONO, particularly with regard to the *change in spherical aberration caused by an objective lens in accordance with wavelength variation of a first*

light beam being generated substantially by third-order spherical aberration only.
Even assuming, arguendo, that the teachings of the references discussed by the Examiner were to be combined, Applicant submits that such a modified system would not result in the invention defined in the claims.

Applicant further submits that the modification suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modification is clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves. Applicant further submits that the Examiner has not provided a proper statement of motivation for such modification, or for combining the teachings of the references.

Applicant further submits that the dependent claims 15, 17 and 19, which are at least patentable due to their respective dependencies from claims 14 and 18, for the above-noted reasons, recite additional features of the invention and are also separately patentable over the prior art of record. In this regard, Applicant submits that the modifications suggested by the Examiner would not have been obvious to one having ordinary skill in the art, and that such modifications are clearly the result of impermissible hindsight reasoning, based upon the disclosure of the present application, rather than being based upon the teachings of the references themselves.

Accordingly, Applicant submits that the rejection of claims 14, 15 and 17-19 under 35 U.S.C. §103(a) is improper at least for each, and certainly for all, of the above-noted reasons. Applicant respectfully requests withdrawal of this

rejection under 35 U.S.C. §103(a), and an early indication of the allowance of all of the pending claims.

Applicant further submits that newly presented dependent claims 21 and 22 also define over the prior art of record. Applicant notes that support for the subject matter of these claims can be found at least at paragraph [0056] of the present application. Accordingly, Applicants respectfully request an early indication of the allowance of all of the pending claims.

COMMENTS ON REASONS FOR ALLOWANCE

In regard to the Examiner's indication of allowable subject matter in claims 5, 16 and 20 on page 11 of the Official Action, Applicant does not disagree with the Examiner's indication that the prior art fails to disclose or teach various features of these claims. However, Applicant wishes to make clear that the claims in the present application recite a combination of features, and that the patentability of these claims is also based on the totality of the features recited therein, which define over the prior art. Thus the reasons for allowance should not be limited to those mentioned by the Examiner.

SUMMARY AND CONCLUSION

Entry and consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so.

Any amendments to the claims that have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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